PUBLIC NOTICE

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Report No. SCL-00141NS **Monday June 17, 2013**

Non-Streamlined Submarine Cable Landing License Applications

Accepted For Filing

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. These applications are not subject to the streamlined processing procedures set forth in Section 1.767 of the Commission's rules, 47 C.F.R. § 1.767.

Unless otherwise specified, interested parties may file comments with respect to these applications within 28 days of the date of this public notice. We request that such comments refer to the application file number shown below.

Unless otherwise specified, ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 C.F.R. § 1.1206.

Copies of all applications listed here are available for public inspection in the FCC Reference and Information Center, located in room CY-A257 at the Portals 2 building, 445 12th Street SW, Washington DC 20554. The center can be contacted at (202) 418-0270. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

Application filed on January 22, 2013, and supplemented on May 24, 2013, by Telefonica International Wholesale Services USA, Inc. on behalf of the PCCS Consortium for a license to construct, land, and operate a non-common carrier fiber-optic submarine cable system linking the continental United States and the British Virgin Islands, Puerto Rico, Aruba, Colombia, Panama, and Ecuador (the Pacific Caribbean Cable System).

The PCCS Consortium is comprised of 12 members, each of which is an applicant for the license: (1) Cable and Wireless (British Virgin Islands) Limited (Cable and Wireless BVI): (2) Cable and Wireless (EWC) Limited (Cable and Wireless EWC); (3) Cable and Wireless Panama S.A. (Cable and Wireless Panama); (4) Servicio Di Telecomunicacion Di Aruba N.V. (SETAR): (5) Cable Andino Inc. (Cable Andino); (6) Cable Andino USA, Inc. (Cable Andino USA); (7) Cable Andino S.A. Corpandino (Cable Andino Corpandino); (8) Telefonica International Wholesale Services America S.A. (TIWS America); (9) Telefonica International Wholesale Services USA, Inc. (TIWS USA): (10) TI Wholesale Services Puerto Rico, Inc. (TIWS Puerto Rico); (11) Telefonica International Wholesale Services Colombia S.A. (TIWS Colombia); and, (12) Antelecom N.V. (UTS) (collectively, Applicants or PCCS Consortium).

The Pacific Caribbean Cable System (PCCS) will be a high capacity digital fiber-optic system comprised of 9 segments, with each segment designed to carry up to 100 wavelengths at 100 Gigabits per second per fiber pair using repeatered and unrepeatered technology. Each segment will initially be equipped with either 1 or 2 100 Gigabits per second wavelengths, with an ultimate design capacity of 80 Terrabits per second in one of the segments. PCCS will extend approximately 6,000 kilometers.

The cable landing stations will be located in Jacksonville, Florida; Tortola, British Virgin Islands; San Juan, Puerto Rico; Hudishibana, Aruba; Cartagena, Colombia; Maria Chiquita, Panama; Balboa, Panama; and Manta, Ecuador. The cable landing stations in Aruba, Colombia, Puerto Rico and the Maria Chiquita station in Panama will use existing facilities, and the landing stations in Florida and Ecuador will be newly constructed at new sites in each of these countries. Landing stations in the British Virgin Islands and Panama will be expanded with new, nearby, interconnected construction to accommodate the PCCS. All of the landing stations are located in countries that are World Trade Organization (WTO) members except for the station in Hudishibana, Aruba.

The Applicants state that PCCS will substantially increase capacity and increase the availability of broadband services, including multimedia and Internet video applications between the Caribbean, Central America, South America and the United States. Additionally, they state that PCCS will provide facilities-based competition on U.S.-Caribbean and U.S.-South America routes, as well as enhance service quality, increase resiliency, and decrease latency in providing services in the region.

The Applicants propose to operate PCCS on a non-common carrier basis. They state that the Americas region (Caribbean, Central America and South America) is currently served by many other submarine cables and that additional cable systems are under construction. They state that these facilities provide a variety of choices thus precluding the Applicants from exercising market power due to a lack of alternative facilities. The Applicants further state that they will not offer capacity to the public indifferently, but rather the available capacity will be used by its consortium members and offered to other carriers on terms tailored to their particular needs.

Each of the Applicants will own circuits throughout the PCCS network. The landing stations and segments will be owned as follows:

(1) Cable and Wireless (BVI) will own and operate the cable landing station in Tortola, British Virgin Island. It will have 100% ownership in the British Virgin Islands and British Virgin Island waters and a 0.6% ownership and voting interest in PCCS.

(2) Cable and Wireless Panama will own and operate the cable landing stations in Maria Chiquita, Panama and Balboa, Panama, and has a 33.33% interest in the terrestrial segment between the cable landing stations. It will have 100% ownership in Panama and Panamanian waters and a 2.6% ownership and voting interest in PCCS.

(3) Cable and Wireless EWC will have a 14.8% ownership and voting interest in PCCS and no ownership interests in either a cable landing station or segment of PCCS.

(4) SETAR will own and operate the cable landing station in Hudishibana, Aruba. It will have 100% ownership in Aruba and Aruban waters and an 11.3% ownership and voting interest in PCCS.

(5) Cable Andino will have a 17.5% ownership and voting interest in PCCS and no ownership interests in either a cable landing station or a segment of PCCS.

(6) Cable Andino USA will have a 5.6% ownership and voting interest in PCCS and no ownership interests in either a cable landing station or a segment of PCCS.

(7) Cable Andino Corpandino will own 50% of the cable landing station in Manta, Ecuador, and will have a 20% interest in the segment between the Balboa, Panama and Manta, Ecuador cable landing stations. It will have a 4.5% ownership and voting interest in PCCS.

(8) TIWS America will have a 28.3% ownership and voting interest in PCCS and no ownership interests in either a cable landing station or a segment of PCCS.

(9) TIWS USA will own and operate the cable landing station in Jacksonville, Florida. It will have 100% ownership in the U.S. and U.S. waters and a 0.8% ownership and voting interest in PCCS.

(10) TIWS Puerto Rico will own and operate the cable landing station in San Juan Puerto Rico, USA. It will have 100% ownership in the territorial U.S. and U.S. waters and no voting or ownership interest in PCCS.

(11) TIWS Colombia will have the rights to operate the Cartagena, Colombia cable landing station which is owned by its affiliate Colombia Telecomunicaciones, S.A. ESP. It will have a 0.0% voting and ownership interest in PCCS.

(12) UTS will have a 14.0% ownership and voting interest in PCCS and no ownership interests in either a cable landing station or a segment of the cable.

Each PCCS consortium member is a party to the PCCS Construction and Maintenance Agreement (C&MA). Under the C&MA, any member of the consortium may transfer its right to use its PCCS circuits to any of its subsidiaries or affiliates. Consortium members may sell indefeasible rights of use (IRUs) to any properly licensed non-member and third parties will be able to obtain transiting to, from, or through any country in which the PCCS lands through the purchase of IRUs.

(1) Cable and Wireless BVI, a British Virgins Islands entity, (2) Cable and Wireless EWC, also a British Virgins Islands entity, and (3) Cable and Wireless Panama, a Panama entity, are all indirect, wholly-owned subsidiaries of Cable & Wireless Communications plc., a publicly-held company registered in England and Wales. Orbis Holdings Limited, Bermuda entity, owns more than 10% of Cable and Wireless plc and Newton Investment Management Limited, a United Kingdom entity, owns approximately 10% of Cable and Wireless plc. Cable and Wireless BVI and Cable and Wireless Panama are each the incumbent local exchange carrier in their respective countries, both of which are members of the WTO. Cable and Wireless EWC is thus affiliated with a foreign carrier with market power in the British Virgin Islands and Panama. Cable and Wireless BVI, Cable and Wireless EWC, and Cable and Wireless Panama each agree to accept and abide by the reporting requirements in section 1.767(l), 47 C.F.R. § 1.767(l), for each of the U.S.-Panama, and the U.S.-British Virgin Islands routes.

(4) SETAR, an Aruba entity, is wholly-owned by the Government of Aruba. SETAR is the incumbent local exchange carrier in Aruba.

The Applicants state that since PCCS will land in Aruba, which is not a WTO Member country, and SETAR has market power in Aruba, the application is subject to the Commission's Effective Competitive Opportunities test (ECO Test) for cable landing licenses. They contend that Aruba meets the ECO Test and SETAR should be allowed to be a licensee for PCCS. See Application at 10-15; Supplement at 2-7.

In the ECO Test for cable landing licenses, the Commission examines: (1) the legal, or de jure, ability of U.S.-licensed companies to have ownership interests in submarine cables landing in the foreign market, and (2) if no explicit legal restrictions on ownership exist, the practical, or de facto, ability of U.S.-licensed companies to have ownership interests in cable facilities in the foreign market. See Telefonica Larga Distancia de Puerto Rico, Inc., Memornadum Opinion and Order, 12 FCC Rcd 5173, 5181-85, 23-33 (1997). Applicants argue that there are there are no known impediments to the legal ability of any U.S. company to enter the Aruban market to provide international telecommunications services, including having an ownership interests in submarine cables that land in Aruba, so long as they do so through a subsidiary organized under the laws of Aruba. They also state that any U.S. company would go through the same licensing process as SETAR. They note that two cables currently land in Aruba and that one of them - the PAN AM cable system - has significant U.S. ownership. Applicants also note that the Commission recently conducted an ECO Test analysis for Aruba the context of a section 214 application and found that Aruba satisfies the four prongs of the ECO Test for an international section 214 authorization. See T.A. Resources, Application for International 214 Authorization and Determination that Aruba Provides Effective Competitive Opportunities to U.S. Carriers, IB Docket No. 10-288, Order and Authorization, 26 FCC Rcd 15978 (IB 2011).

(5) Cable Andino, (6) Cable Andino USA, and (7) Cable Andino Corpandino are all subsidiaries or affiliates of Telconet S.A., an Ecuador entity. Telconet S.A. is owned by two Ecuadorian citizens, Marion Tomislav Topic and Jan Tomislav Topic, 54% and 46%, respectively. Cable Andino, a Bahamas entity, is a direct, wholly-owned subsidiary of Telconet S.A. and Cable Andino USA is a direct, wholly-owned subsidiary of Cable Andino. Teleconet S.A. has a 47.5% ownership in Cable Andino Corpandino, with Gorgio Surian, an Italian citizen, holding the other 52.5% ownership. Cable Andino, Cable Andino USA, and Cable Andino Corpandino are not affiliated with any carriers that have market power in destination PCCS landing.

(8) TIWS America, (9) TIWS USA, (10) TIWS Puerto Rico, and (11) TIWS Colombia are all indirect subsidiaries of Telefonica S.A., a Spain entity. TIWS America, a Uruguay entity, is 74.36% owned by Telefonica S.A. and 25.64% owned by Telefonica International Wholesale Services, S.L. (TIWS S.L.). TIWS S.L., a Spain entity, is 92.51% owned by Telefonica, S.A. and 7.49% owned by Telefonica DataCorp., a wholly-owned Spanish corporate subsidiary of Telefonica, S.A. TIWS USA, a Florida corporation, is wholly-owned by TIWS America. TIWS Puerto Rico, a Puerto Rico company, is wholly-owned by TIWS America. TIWS Colombia, a Colombia entity, is 94.98% owned by TIWS America, with the remaining ownership interests held by TIWS Chile S.A. (1.67%), TIWS Peru S.A.C. (1.67%), TIWS Guatemala S.A. (1.66%), and TIWS Argentina S.A. (0.01%). TIWS America, TIWS USA, TIWS Puerto Rico, and TIWS Colombia are each affiliated with a foreign carrier with market power in Columbia, a WTO Member country. TIWS America, TIWS USA, TIWS Puerto Rico, and TIWS Colombia each agree to accept and abide by the reporting requirements in section 1.767(l), 47 C.F.R. § 1.767(l), for the U.S.-Columbia route.

(12) UTS is a direct, wholly-owned subsidiary of United Telecommunication Services N.V., a Curacao government owned company incorporated under the laws of the Netherlands Antilles. UTS is not affiliated with any foreign carrier in any destination PCCS landing country.

All twelve applicants each agree to abide by the routine conditions specified in section 1.767(g) of the Commission's rules, 47 C.F.R. § 1.767(g).

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 C.F.R. §§ 1.2001–.2003.

An updated version of Section 1.767 of the rules, and other related sections, is available at http://www.fcc.gov/ib/pd/pf/telecomrules.html